

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1161**

In the Matter of: Del Zotto Products.

**Filed April 3, 2023
Affirmed
Jesson, Judge**

Minnesota Pollution Control Agency

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Considered and decided by Connolly, Presiding Judge; Jesson, Judge; and
Slieter, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

Absent special approvals, septic tanks in Minnesota cannot have openings below the sewage-liquid level of the tank. Minn. R. 7080.1990, subp. 1(C) (2021). But an inspection revealed that relator Del Zotto Products, Inc. (Del Zotto) had five registered septic tanks with plugged drilled holes (referred to as “weep holes”) at its facility. Del Zotto initially claimed to the agency that regulates septic tanks, respondent Minnesota Pollution Control Agency (MPCA), that these tanks were an “anomaly.” After further investigation, the MPCA ordered Del Zotto to stop selling septic tanks with weep holes

and to inspect six of its installed precast concrete septic tanks, selected by the MPCA, for weep holes. If any of the six septic tanks were discovered to contain a weep hole—with or without a plug—the MPCA’s order directs Del Zotto to pump, inspect, and repair every tank it installed since January 2013.

In this certiorari appeal, Del Zotto contends that the MPCA (1) erred when it treated plugged weep holes in Del Zotto’s septic tanks as prohibited “openings” and as not meeting the requirements of either of two approval paths for septic-tank design, and (2) lacked substantial evidence to require the inspection and potential repair of Del Zotto’s septic tanks. Because a weep hole, whether plugged or not, is an opening under the plain meaning of the septic-tank regulations and Del Zotto did not obtain local-unit-of-government approval for its design, and because the MPCA had substantial evidence to issue its order against Del Zotto, we affirm.

FACTS

Del Zotto is a Minnesota corporation that manufactures precast-concrete-subsurface sewage treatment systems (septic tanks) that are 2,500 gallons in size. As a manufacturer of septic tanks, Del Zotto is held to certain guidelines for its tanks—codified in Minnesota Rules 7080.1900 to 7080.2020 (2021)—and is regulated by the MPCA. *See* Minn. Stat. § 115.55, subd. 4(a) (2022) (stating that a person who designs, installs, alters, repairs, maintains, pumps, services, inspects, or abandons all or part of a subsurface sewage treatment system shall comply with the applicable requirements).

In January 2013, Del Zotto submitted applications for 32 of its septic-tank models. The MPCA approved all of them. On its applications, Del Zotto averred that its models

did not have any penetration points or openings in the exterior walls or tank bottom below the tank liquid level. *See* Minn. R. 7080.1990, subp. 1(C). In its approval letter, the MPCA stated that Del Zotto's now-registered septic tanks must be used in compliance with the plans and design specifications provided in Del Zotto's application, and that any deviation, change, or modification of the model's design is not permitted unless allowed in writing by the MPCA or through a renewal application or another registration application.

In July 2021, an MPCA environmental-health officer, while inspecting the installation of a Del Zotto-registered septic tank, informed an MPCA engineer that one of Del Zotto's 2,500-gallon septic tanks had a weep hole and plug below the liquid line of the tank, providing pictures to show the plugged weep hole. The engineer confirmed that holes drilled below this line in septic tanks are not allowed. As a result, Del Zotto removed the tank and replaced it with a 2,000-gallon septic tank and a 500-gallon pump tank, both of which did not have any weep holes.¹

The MPCA then conducted an inspection of Del Zotto's septic-tank facility and observed that Del Zotto had five 2,500-gallon septic tanks with weep holes drilled in the wall of the tank below the water line. Del Zotto informed the MPCA that it plugged the weep holes with plastic corks (also referred to as plugs) upon selling the septic tanks to customers prior to their installation. In response to learning of the plugged weep holes in some of Del Zotto's septic tanks, the MPCA sent Del Zotto a request for information with

¹ One of the MPCA's environmental specialists also commented on this issue at the time and stated that the septic tank with the weep hole and the plug is "not a registered tank anymore," but instead a "modified tank . . . from [Del Zotto's] original drawing," which would require MPCA approval of a new septic-tank model application.

several action items regarding Del Zotto's process of drilling and sealing weep holes in its septic tanks.²

In its reply to the MPCA, Del Zotto explained that the six septic tanks with weep holes that the MPCA observed were anomalies due to a cancelled 2020 customer order. And since the customer did not want the septic tanks installed, Del Zotto had to store the septic tanks outside at their facility during the winter, which required the drilling of a weep hole to maintain the integrity of the concrete walls. Del Zotto stated that when it received an order for a septic tank in July 2021, it decided to give the customer one of the cancelled-2020-customer-order tanks after plugging the weep hole. And that one tank was the tank the MPCA saw and that Del Zotto later replaced. Del Zotto maintained that no other septic tanks with plugged weep holes had been installed and that it would not install any others of that model until it received engineer and local-unit-of-government approval of the plugged-weep-hole septic tanks.

This response led to another facility visit by the MPCA. At this visit, the MPCA observed the same five septic tanks with plugged weep holes. Three of the five septic tanks had manufacturing years of 2020. One had a manufacturing year of 2016—which was four

² The seven action items included that Del Zotto provide: (1) a signed statement that it will not sell any tanks that contain weep holes or are not registered, (2) a complete list of all 2,500-gallon septic tanks sold since January 15, 2013, (3) a signed statement detailing when Del Zotto began drilling weep holes for storm-water drainage and how often Del Zotto drills weep holes, (4) a signed statement documenting how Del Zotto drills and seals the weep holes, (5) a signed statement documenting how Del Zotto conducts annual watertight testing with the weep holes, (6) the manufacture date of the first non-compliant septic tank discovered by the MPCA's environmental-health officer, and (7) a list of the manufacture dates and models for all Del Zotto's current 2,500-gallon septic tanks at its facility.

years earlier than the alleged cancelled order. And one had a manufacturing year that was unreadable. A few days later, a contractor informed the MPCA that they installed two of Del Zotto's 2,500-gallon septic tanks in 2019 and 2021. And those two tanks had plugged weep holes. The contractor explained that he experienced leakage with the septic tanks containing the plugged weep holes of approximately three gallons of groundwater. According to the contractor, Del Zotto advised him to repair the leakage with hydraulic cement because sometimes the weep holes would be over-drilled at its facilities and the plugs would not fit properly.

As a result, the MPCA sent another request for information to Del Zotto with two action items: Del Zotto must provide (1) a complete list of all 2,500-gallon septic tanks sold since January 2013 and (2) a statement on the number of septic tanks manufactured to fulfill the cancelled 2020 customer order with accompanying manufacturing dates. Del Zotto responded to both action items, clarifying that the cancelled 2020 order was for seven 2,500-gallon septic tanks—which was two more than it initially told the MPCA and one more than the last update it gave to the MPCA.

During the time the MPCA was looking into the plugged-weep-hole issue with Del Zotto's septic tanks, Del Zotto submitted applications to register three new septic-tank models with two of the models' blueprints titled "Septic Tank W/ Weep Hole." But Del Zotto's applications contended that these models do not have any "penetration points or openings in the exterior walls or tank bottom below the tank liquid level."

Accompanying Del Zotto's applications, Del Zotto attached a report from a mechanical engineer who tested the weep-hole plugs and concluded that it was his

professional opinion that “the plugs are adequate to stop any leakage and will stay in place because no pressure can exist that will drive them out.” But the mechanical engineer also stated that his report “speaks to the adequacy of the plastic plug as an effective stopper to prevent leaks [but] *[i]t does not endorse nor support the practice of putting the holes in the [septic] tank.*” (Emphasis added.) Ultimately, the MPCA denied Del Zotto’s applications for those septic-tank models because they were noncompliant due to the holes drilled below the operating depth.

Following up with its denial of Del Zotto’s applications, the MPCA sent Del Zotto a corrective-action letter ordering Del Zotto to stop selling septic tanks with weep holes, plugged or otherwise. Del Zotto refused to comply with the letter.

Finally, the MPCA sent Del Zotto a proposal to correct its noncompliant septic tanks, which Del Zotto rejected. As a result, MPCA issued an order against Del Zotto requiring its compliance with the proposal.

The order directed Del Zotto to complete the following tasks:

- (1) Inspect six of its existing 2,500-gallon septic tanks for weep holes, as chosen by the MPCA and with MPCA supervision;
- (2) Pump and clean each septic tank;
- (3) Take a video of the inside of each septic tank;
- (4) Before doing tasks one through three, receive permission from the homeowners with the corresponding septic tanks and front any costs associated with the inspections;
- (5) If weep holes are identified, repair or replace the septic tank; and

- (6) If even one of the six septic tanks contain a weep hole, with or without a plug, pump, inspect, and repair *all* 2,500-gallon septic tanks installed since January 2013.

Del Zotto's certiorari appeal follows.

DECISION

There are two approval paths that a septic tank manufacturing company can take to comply with MPCA regulations. The first approval path is registering its septic-tank models with MPCA by submitting to the MPCA an application with a septic-tank design that meets or exceeds rules 7080.1910 to 7080.2030. Minn. R. 7080.1900. Once the MPCA approves its design in this first path, the company's septic-tank designs are placed on a list of registered sewage systems that the MPCA maintains. Minn. R. 7083.4000. Being on this list demonstrates to consumers, local governments, and tank installers that the company's septic tank meets the MPCA's minimum standards. The second approval path does not place the company on the MPCA's approved registration list. In this path, the company must secure both engineer and local-unit-of-government approval for its non-registered tank to be compliant with MPCA regulations. Minn. R. 7080.1900. Del Zotto initially sought approval of its septic-tank models through the first approval path, and now it asserts that its septic tanks would also satisfy the second approval path.

- I. The MPCA neither erred in its interpretation of "openings" nor in its conclusion that Del Zotto's plugged-weep-hole septic tanks were noncompliant with the MPCA's regulations under both approval paths.**

We are mindful that an administrative agency's decision enjoys a presumption of correctness, and we defer to the relevant agency's expertise and special knowledge in its field when conducting a review of one of its decisions. *In re Cities of Annandale & Maple*

Lake NPDES/SDS Permit Issuance for the Discharge of Treated Wastewater, 731 N.W.2d 502, 513 (Minn. 2007). In light of this deferential standard, we do not substitute our judgment for that of the administrative agency when the administrative agency’s findings are properly supported by the evidence. *In re Denial of Eller Media Co.’s Applications for Outdoor Advert. Device Permits*, 664 N.W.2d 1, 7 (Minn. 2003).

But the interpretation of statutes and administrative regulations presents a question of law, which we review de novo. *In re Reissuance of an NPDES/SDS Permit to U.S. Steel Corp.*, 954 N.W.2d 572, 576 (Minn. 2021) (*U.S. Steel*). If the language of the agency regulation is plain and unambiguous, we follow our own judgement and are not required to defer to the agency’s interpretation. *Id.* But if the language is ambiguous, or subject to more than one reasonable interpretation, we will defer to the agency’s interpretation and will generally uphold that interpretation if it is reasonable. *Id.*

With these standards of review in mind, we turn first to whether the MPCA correctly treated a plugged weep hole as coming within the meaning of opening under the rule that would make Del Zotto noncompliant with the MPCA’s first approval path. Then we turn to whether, even if a plugged weep hole is an opening, Del Zotto’s septic-tank models are compliant with the MPCA’s septic-tank regulations under the second approval path.

A. Del Zotto’s weep holes, even with a plug, are prohibited “openings” pursuant to Minnesota Rule 7080.1990, subpart 1(C) and thus noncompliant under the first approval path.

Del Zotto contends that the MPCA applied an erroneous theory of law when it interpreted the regulation prohibiting “openings” in septic tanks to include weep holes that have been plugged. Plugging the weep hole, Del Zotto reasons, removes the opening. But

the MPCA concluded that Del Zotto’s plugged weep holes were prohibited “openings” under Minnesota Rule 7080.1990, subpart 1(C) and were in violation of septic-tank regulations, which warranted its denial of Del Zotto’s applications under the first approval path.

This dispute raises a question of rule interpretation, which we treat similarly to statutory interpretation. *See U.S. Steel*, 954 N.W.2d at 576 (“Like statutes, administrative regulations are governed by general rules of construction.” (quotations omitted)). Since interpretation of administrative rules is a question of law, we review this issue de novo. *See City of Oronoco v. Fitzpatrick Real Est., LLC*, 883 N.W.2d 592, 595 (Minn. 2016). The first step in rule interpretation is to determine whether the rule’s language is ambiguous. *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017). A rule is ambiguous if its language is “subject to more than one reasonable interpretation.” *Christianson v. Henke*, 831 N.W.2d 532, 537 (Minn. 2013). And if a rule is ambiguous, we must discern legislative intent by looking beyond the plain language of the rule. *Staab v. Diocese of St. Cloud*, 853 N.W.2d 713, 717 (Minn. 2014). But if the drafter’s intent is clearly discernible from the plain and unambiguous language, we apply the rule’s plain meaning. *Am. Tower, L.P. v. City of Grant*, 636 N.W.2d 309, 312 (Minn. 2001). When determining whether a rule is ambiguous, we construe words and phrases according to accepted rules of grammar, and we rely on the meaning assigned to the words or phrases in accordance with the apparent purpose of the regulation as a whole. Minn. Stat. § 645.08(1) (2022); Minn. Stat. § 645.001 (2022) (stating that chapter 645

governs administrative rules as well as statutes); *Cities of Annandale & Maple Lake*, 731 N.W.2d at 516-17.

Turning to the rule governing prohibited “openings” in septic-tank models, Minnesota Rule 7080.1990, subpart 1(C) states: “[p]recast reinforced concrete tanks must . . . have no pipe penetration points or openings in the exterior walls or tank bottom below the tank liquid level, unless designed for a specific operational purpose and approved by the local unit of government.” Both Del Zotto and the MPCA agree that this rule is unambiguous. We agree as well. Accordingly, we apply the plain meaning of the word “openings” in our determination of whether a weep hole with a plug is a prohibited opening.

The plain meaning of “opening” is a gap, breach, or aperture, or as an action, to make a hole or gap in something. *The American Heritage Dictionary of the English Language* 1234-35 (5th ed. 2018); see also *Jaeger v. Palladium Holdings, LLC*, 884 N.W.2d 601, 605 (Minn. 2016) (explaining that an appellate court looks to the common dictionary definition of the word or phrase to discover its plain and ordinary meaning). As a result, the drilling of a weep hole, the very nature of which is a gap or hole in the precast concrete of the septic tank would be an “opening” pursuant to the rule. Minn. R. 7080.1990, subp. 1(C). And Del Zotto concedes that, if we were to apply the plain meaning of “openings,” an appropriate definition would be a “hole.”

Still, Del Zotto contends that “openings” as defined within this plain meaning does not apply to a weep hole with a plug because by plugging the weep hole, the opening no longer exists. We are not persuaded. Minnesota Rule 7080.1990, subpart 1(C), states that a precast septic tank cannot have “pipe penetration points or openings in the exterior walls

or tank bottom below the tank liquid level.” Since Del Zotto’s septic tanks had weep holes drilled into them, they have an opening—a hole. Even if the weep hole is plugged later, the opening still exists in the septic tank, rendering the tank noncompliant.³ The act of plugging the weep hole is not an approved method of repairing a weep hole to be compliant with the MPCA’s main goal of preventing leakage of sewage into the groundwater. As a result, a plug does not remove the weep-hole “opening” on a septic tank.

Further, although Minnesota Rule 7080.1990, subpart 1(C), permits a septic-tank model to have an opening in the event that it is (1) designed for a specific operational purpose and (2) approved by a local unit of government, Del Zotto has not met these requirements for compliance either. Del Zotto did not provide any evidence that its plugged-weep-hole design was approved by a local unit of government to satisfy this alternate route under the first approval path.⁴

In sum, the MPCA did not err in interpreting “openings” to include the plugged weep holes in Del Zotto’s septic tanks when it denied approval under the first path.

³ Del Zotto was aware that drilling a weep hole, and adding a plug, was likely not compliant with the MPCA’s regulations because Del Zotto replaced the first septic tank that was discovered to have a plugged weep hole. And Del Zotto repeatedly communicated to the MPCA that it would not install its plugged-weep-hole septic tanks until it received approval from the appropriate bodies—an engineer and local unit of government or the MPCA.

⁴ Nor did it bring forth any evidence to establish that this plugged-weep-hole-septic-tank design was for a specific operational purpose, meaning for a unique situation or with new technology. In fact, Del Zotto contends that weep holes and plugs are common in this business—thus not a unique or new situation or technology.

B. Del Zotto’s plugged weep holes in its septic tanks also do not satisfy the second approval path to be compliant with the MPCA’s septic-tank regulations.

Del Zotto maintains that even if the plugged weep hole is a prohibited “opening” under Minnesota Rule 7080.1990, subpart 1(C), this model is still compliant through the second approval path under Minnesota Rule 7080.1900, which permits a company’s septic-tank model to not strictly adhere to the MPCA’s regulations if the model has both engineer and local-unit-of-government approval.⁵

Here, in applying the same de novo standard of review to this unambiguous rule, we conclude that the MPCA did not err in finding that Del Zotto did not meet the requirements of approval under the second approval path either because Del Zotto has not brought forth any evidence to show that a local unit of government approved its plugged-weep-hole design.

To persuade us otherwise, Del Zotto asserts that since Minnesota Statutes section 115.55, subdivision 5 (2022), mandates inspections by local units of government, its septic tanks are impliedly approved at installation. We disagree. Minnesota Statutes section 115.55, subdivision 5, requires an inspection for all new construction or replacement of a septic tank, which places the timing of this inspection *after* construction of the septic tank. But local-unit-of-government approval under Minnesota Rules 7080.1900 and

⁵ Del Zotto also contends that there is no regulation that requires compliance with the regulations under chapter 7080 before installation. But to apply the rationale that septic-tank designs requiring MPCA approval can be approved after installation circumvents the main purpose of having regulations in the first place. *See* Minn. Stat. § 115.55, subd. 4(a) (requiring compliance of applicable requirements to those that design *and* install septic tanks). As such, this argument fails.

7080.1990, subpart 1(C), to satisfy an exception to compliance with MPCA’s rules on septic-tank models comes *before* any installation of a septic tank. Accordingly, Del Zotto’s reliance on this statute is incorrect. Moreover, even if approval by a local unit of government was allowed after construction of a septic tank, there was no such approval here. In fact, an inspection of one of Del Zotto’s septic tanks and the MPCA’s discovery of its noncompliance is what led to further investigation and the MPCA’s eventual denial of the plugged-weep-hole septic-tank model’s use.

Because Del Zotto has not achieved local-unit-of-government approval for its plugged-weep-hole septic-tank design, we need not reach the issue of whether Del Zotto received engineer approval.

In sum, the MPCA neither erred in its interpretation of “openings” to include Del Zotto’s plugged weep holes, which are noncompliant with the first approval path, nor in its determination that Del Zotto’s plugged-weep-hole design did not have local-unit-of-government approval and did not comply with the second approval path.

II. The MPCA’s order against Del Zotto was supported by substantial evidence.

Del Zotto asserts that the MPCA’s order lacked any evidence of noncompliance to require Del Zotto to inspect and potentially repair countless septic tanks.⁶ But the MPCA

⁶ Del Zotto also argues that the MPCA does not have statutory authority to issue the order against it because the MPCA lacked “proof” and the repair requirement was redundant given the allegations its septic tanks have *plugged* weep holes. Although this argument appears to be questioning statutory authority which warrants a de novo review, the basis for the issue is actually that of a substantial-evidence analysis. *In re Otter Tail Power Co.*, 942 N.W.2d 175, 179 (Minn. 2020). Minnesota Statutes section 115.03, subdivision 1(e) (2022), explicitly grants the MPCA the authority to issue reasonable orders under

concluded that a plugged weep hole that is not watertight has the potential to compromise groundwater, which provides sufficient evidence for the MPCA to order inspections and repairs of Del Zotto's potentially noncompliant septic tanks.

Turning to a different standard of review from that governing rule interpretation, we apply a substantial-evidence standard to an administrative agency's factual findings, as well as to its quasi-judicial application of the law to those facts. *See In re Enbridge Energy, Ltd. P'ship*, 964 N.W.2d 173, 188-89 (Minn. App. 2021) (explaining that if an agency's decision is supported by substantial evidence, the appellate court must affirm the agency's decision), *rev. denied* (Minn. Aug. 24, 2021). In a substantial-evidence analysis, this court must affirm the agency's decision if there is such evidence as a reasonable mind might accept as adequate to support a conclusion to show that the agency engaged in reasoned decision-making. *Cable Communic'ns Bd. v. Nor-west Cable Commc'ns P'ship*, 356 N.W.2d 658, 668-69 (Minn. 1984); *Cannon v. Minneapolis Police Dep't*, 783 N.W.2d 182, 189 (Minn. App. 2010); *see In re Expulsion of A.D.*, 883 N.W.2d 251, 259 (Minn. 2016) (stating that the substantial-evidence standard addresses the reasonableness of what the agency did on the basis of the evidence before it).

conditions it may prescribe to prevent, control, or abate pollution. Del Zotto contends that the MPCA needed "proof" that its activity has an imminent public health threat under Minnesota Statutes section 115.55, subdivision 5a(b)(1-4), but this assertion is incorrect as a matter of law. Section 115.55, subdivision 5a(b)(1-4), requires that if the MPCA finds a certain condition in an inspection of septic tanks, then the septic tanks need to be repaired, upgraded, or replaced. Thus, it does not limit the MPCA's authority to issue an order. Rather, it provides guidelines for what to order when certain threats are found.

The law that governs whether the MPCA has substantial evidence to order Del Zotto to inspect its septic tanks and potentially repair any noncompliant tanks is outlined in Minnesota Statutes section 115.55, subdivisions 5a(a) (2022) and 5a(b)(1)-(4) (2022). Specifically, these sections state that if an inspection results in the discovery of one of the following conditions, then the septic-tank system “constitutes an imminent threat to public health or safety”:

- (1) sewage discharge to surface water;
- (2) sewage discharge to ground surface;
- (3) sewage backup; or
- (4) any other situation with the potential to immediately and adversely affect or threaten public health or safety.

Id. If the septic-tank system constitutes an imminent threat to public health or safety, this statute outlines that if it is “not repaired, [it] *must* be upgraded, replaced, or its use discontinued within ten months of receipt of the notice . . . or within a shorter period of time if required by local ordinance.” *Id.* (emphasis added).

On this record, the MPCA has substantial evidence to support its decision to order Del Zotto to inspect its septic tanks and potentially repair or replace any noncompliant tanks. As section 115.55, subdivision 5a(b)(4), explains in its catchall provision, if the MPCA in its inspection finds “*any other situation with the potential* to immediately and adversely affect or threaten public health or safety, then the system constitutes an imminent threat to public health or safety” and the septic tanks must be repaired or removed. *Id.* (emphasis added). The following evidence from the record supports the MPCA’s

contention that its inspection of Del Zotto's facility warranted an order requiring inspection and potential repairs to Del Zotto's septic tanks:

- In July 2021, the MPCA's environmental-health officer observed the attempted installation of a noncompliant septic tank (i.e., a septic tank with a plugged weep hole) in direct violation of Minnesota Rule 7080.1990, subpart 1(C) which prohibits "openings," which was implemented primarily to prevent the risk of water pollution from sewage seepage;
- In September 2021, the MPCA spoke with a tank installer who reported he had installed two Del Zotto septic tanks that contained plugged weep holes that were not watertight. The MPCA was notified by the tank installer that 24 hours after installation, three gallons of groundwater had allegedly seeped out of the tank through the weep hole(s);
- Del Zotto's explanation for the noncompliant plugged-weep-hole septic tanks was inconsistent with the MPCA's findings. Del Zotto claimed five to six septic tanks had weep holes due to a 2020 cancelled order, but the MPCA observed at least one weep-hole plugged tank manufactured in 2016; and

These facts provide substantial evidence that support the MPCA's conclusion that an order for inspection and potential repair of septic tanks was needed because the plugged weep holes posed a *potential* risk that of sewage leakage that could "immediately and adversely affect or threaten public health or safety." Minn. Stat. § 115.55, subd. 5a(b)(4).⁷

⁷ Del Zotto also asserts that the MPCA's order did not comply with Minnesota Statutes section 115.55, subdivision 5a(b), since the repairs were required to be completed sooner than the "ten months" outlined in the statute. But the MPCA's order did not require repairing by a certain date, only inspection by a certain date in order to determine whether repairs were needed by that time. Thus the MPCA did not err in this regard in its order either.

In sum, the MPCA did not err when it determined that a septic-tank weep hole, even with a plug, was a prohibited opening noncompliant with Minnesota Rules nor when it determined Del Zotto did not meet any of the exceptions to compliance with septic-tank model regulations. Also, the MPCA's order requiring Del Zotto to inspect its septic tanks and take certain actions if those inspections reveal noncompliant septic tanks with weep holes or plugged weep holes was supported by substantial evidence.⁸

Affirmed.

Additionally, Del Zotto contends that the MPCA's order to repair or replace the septic tanks is contradictory, given that to "repair" a weep hole, a plug would need to be inserted, according to Del Zotto, which it has already done. This argument fails. Del Zotto is interpreting "repair" too narrowly. Cork plugs have not been approved by the MPCA as a method of fixing a weep hole. Accordingly, "to repair" a septic-tank weep hole is not to plug it, but to seal it with an MPCA-approved method of sealing to prevent leakage into groundwater.

⁸ As pointed out at oral argument by Del Zotto, we recognize that if a septic tank with a plugged or not plugged weep hole is found during Del Zotto's MPCA-ordered inspections, it could carry significant implications for Del Zotto as a company. But these implications are outside the purview of this court. Any change to the requirements of the MPCA's rules regarding septic tanks is solely within the power of the MPCA or the legislature.